IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6544 OF 2005

Shruti Vinayak Mate. ...Petitioner.
Vs.
State of Maharashtra & Ors. ...Respondents.
....
Mr. A. M. Joshi for the Petitioner.
Mr. V.P. Malwankar, AGP for Respondent Nos.1 and 2.
Mr. Anil Thatte, Secretary of Respondent No.3 present.
.....
CORAM : KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.

April 24, 2006.

P.C. :

Rule, by consent of Counsel returnable forthwith. Counsel appearing on behalf of the Respondents waive service. By consent of Counsel and at the request of Counsel taken up for hearing.

The Petitioner was appointed as a Junior Clerk in the MSS High School at Chinchwad with effect from 20th August 1998. The Institution is conducted by the Third Respondent. The Education Officer of the Zilla Parishad, Pune granted his approval to the appointment on 19th September 1998. The Petitioner has been in continuous service ever since. On 17th March 2005, the

Education officer issued a letter to the management adverting to the complaint that has been received from an Association representing the Backward Classes to the effect that appointments have been made by the management in deviation of the quota reserved for the Backward Classes. The management was called upon to disclose all the relevant details within a period of 15 days. On 8th April 2005 the Headmistress sought time from the Education Officer. Before that by an order sated 6th April 2005, the Education Officer stayed the approval granted to the Petitioner from 20th August 1998 on the ground that no satisfactory explanation has been furnished by the management. In view thereof the Petitioner's salary has been withheld and no salary grant has been released. Hence it is stated that the Petitioner is without any salary for over four months.

There is merit in the submission urged on behalf of the Petitioner that the action of the Education Officer in staying the approval which was granted on 9th September 1998 without notice to the Petitioner is arbitrary and unlawful. The Learned AGP has not been able to demonstrate before the Court any provision of law under which an approval which was granted nearly seven years

earlier could have been stayed, that too, without notice to the affected employee. The Education Officer seems to have acted on the complaint which was lodged before him without any application of mind to whether there was any substance in the complaint. In any case, it was necessary for the Education Officer to issue a communication to the Petitioner who was liable to be directly affected by any adverse action. In these circumstances, the order passed by the Education Officer on 6th April 2005 is patently unsustainable and has to be quashed and set aside. There shall be an order accordingly. The petition shall accordingly stand allowed. The Petitioner shall be paid over the arrears of his salary withheld thus far in thee weeks. Rule made absolute. There shall be no order as to costs.

CHIEF JUSTICE

Dr.D. Y. Chandrachud, J.